IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 379 OF 2006

Pradeep Shivajirao Shinde. ...Applicant
V/s.
The State of Maharashtra. ...Respondent

Shri A.P. Mundargi with Shri V.Y. Jadhav for Applicant.
Ms.S.U. Gajre, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FBERUARY 28, 2006

P.C. :-

. Heard learned Counsel for the applicant and learned APP for the State.

. The applicant was arrested in connection with an offence which was registered at Maswad Police Station on the complaint filed by the Managing Director of Satara District Central Co-operative Bank Ltd. It is alleged in the complaint that the applicant alognwith others had committed the offence of breach of trust, misappropriation, cheating, forgery and had siphoned of money to the tune of Rs.2 crores.

2. Learned Counsel for the applicant has submitted

that the applicant was working with the said Bank as a Branch Manager from 2001 to March 2003 and that one of his duty was countersigning of the cheques which were received for the purpose of withdrawal of money. He submits that admittedly even according to the complainant, the cashier Shri Bhise was a person who fabricated the records and the applicant at the most was negligent not to verified whether proper sanction was given by the cashier or not. He submitted that all other Managers who were working in the branch were released on bail and the chargesheet has been filed. It is submitted that the applicant, therefore, is entitled to be released on bail. He also invited my attention to the additional paper book which has been submitted by the applicant and pointed out various transactions which had taken place in the manner in which the amount mentioned in the cheque was altered by the said cashier and the monies were withdrawn. It is submitted that the only role played by the applicant is that of sanction of the cheques. He further submitted that even on parity, the applicant is entitled to be released on bail.

2. Learned APP, on the other hand, vehemently opposed the application for grant of bail to the applicant. She submitted that public money to the tune of Rs.2 crores have been defrauded and there were only three persons working in the bank, one was Peon, Cashier and the Manager - the present applicant. She submitted that it could have not been possible for the cashier to withdraw the said amount without the consent of the present applicant. One accused is absconding and the monies which had been siphoned off so far are not recovered.

3. I have given my anxious consideration to the submissions made by both the learned Counsel for the applicant and learned APP for the State. In my view, this is not a fit case for grant of bail. It is an admitted position that the applicant was working as the Branch Manager from March 2001 to March 2003. During that period, an amount of Rs.21,82,110.40ps. was withdrawn from the Bank. It is impossible to imagine that the Manager of a Branch in which only two persons viz. cashier and Manager are working, would not notice

this fraud for a period of three years from 2001 to 2004. There is no doubt that from the entries in the cash register of various accounts and transactions which take place, at the end of the day the fraud of such huge proportion would have certainly come to the notice of the Manager. Therefore, merely because the actual forgery was done the cashier, that by itself would not absolve the branch Manager, as the one of the charge which is levelled against him is that of conspiracy, apart from breach of trust and cheating. So far as the Judgment of this Court is concerned on which reliance is placed, in my view, allegations against the said applicant are slightly different. The applicant in Criminal Application No.7748/2005 was working as a Branch Manager some in 2004 and therefore, the reasoning given by this Court in the said case cannot apply to the facts of the said case. Further, as stated by the learned APP, one accused is still absconding and therefore, there is every possibility that the applicant, if released on bail, is likely to tamper with the evidence.

. The application for bail, under these circumstances, is rejected.

(V.M. Kanade, J.)